

Call to Order:

The meeting was called to order at 7:30 p.m. Present were Chair Zach Bergeron, members Jay Doherty, Joan Duff, Ann Knowles and associate member Steve Pouliot; also present were Paul Materazzo, Director of Planning and Jacki Byerley, Planner.

254 Lowell Street – Strawberry Hill Farm:

Mr. Bergeron opened the continued public hearing on an application submitted by National Development Acquisitions, LLC for a Special Permit for Elderly Housing for a proposed development at 254 Lowell Street the former Strawberry Hill Farm.

Mr. Materazzo stated that items continued from the last meeting include the affordable housing component, the payment in lieu of option, and the congregate care definition in the Andover Bylaw.

Ted Tye, Managing Partner of National Development reviewed the Andover Zoning Bylaw definition of congregate care and how the project meets each aspect of the definition. Mr. Materazzo added that he has been working with the Inspector of Buildings, Chris Clemente, throughout this process and Mr. Clemente has provided a memo to the Board confirming that this project fits within the congregate care definition of the Bylaw. Mr. Tye added that all categories of elderly housing have the same requirements, so there is not an advantage to using one definition over another. Mr. Bergeron asked if congregate care only pertains to the Bridges building. Mr. Tye stated that the Andover Senior Residences fit the criteria as well.

Mr. Tye reviewed the allocation of affordable units. He noted that the Bylaw states that 15% of the total number of units must be set aside as affordable. This development will have 70 affordable units all located in the Andover Senior Residences which is 53% of the development. The Bridges will not have affordable units because affordability in memory care is hard to achieve. The units can be made affordable, but the service package that goes along with cannot. He added that at Atria Marland Place, there are assisted living units that are affordable but the memory care in the same facility is not.

Ms. Knowles asked how affordability is determined. Mr. Tye stated that a Federal formula is used to determine percentage of median income for an area. A person's income and assets are reviewed for qualification based on the limits set by the government. Mr. Doherty asked why all of the units in Phase 2 are being made affordable. Mr. Tye stated that the financing requires 100% affordability. Mr. Materazzo added that the affordable units are important to the community because the affordability of 161 rental units at Andover Commons expires in the year 2021. That building currently has an over two year waiting list.

Mr. Tye reiterated that the Town's Master Plan addresses this as a need, and he was unaware of the expiring affordability at Andover Commons when his group put this application forward. Mr. Bergeron asked if the affordability on the Andover Senior Residences would expire. Mr. Materazzo stated that if the Board chose to make a favorable recommendation a requirement would be affordability in perpetuity. He added that the Master Plan in 1992 identified senior housing as a critical need and it was reinforced by Town Meeting vote to change the Bylaw to allow for such uses in the SRA and SRB districts, and again in the 2012 Master Plan.

Mr. Pouliot asked if the Town can renegotiate with the developments with expiring affordability. Mr. Materazzo stated that the Town is doing that now, but added there is a need for affordable senior housing today, which is shown in the waiting list for Andover Commons. Mr. Pouliot questioned how many Andover residents are on waiting list. He added that if it is a need for the Town it should be serving Andover specific residents. Mr. Materazzo noted that the applicant is suggesting a restriction that gives Andover residents first preference as much as possible under the law. Ms. Byerley added that it is important to serve residents who may want to bring their elderly parents into Town. Mr. Tye stated that a resident can be defined in many different ways, but the definition needs comply with the law. Mr. Pouliot asked if they could set aside a certain percentage of occupancy for residents. Ms. Duff noted that there is already an Andover preference in place for affordable units in Town and added that when Andover Commons was built, the affordability in perpetuity was not allowed. Ms. Knowles asked if the Andover preference could be in perpetuity. Mr. Tye stated that it could and explained the initial lottery system and waiting list.

Mr. Tye further explained the security offered for the affordable units. The Bridges will be able to start construction immediately. They are proposing a cash deposit of \$250,000, which is \$28,000 per unit to be placed in escrow with the Town. If the Andover Senior Residences is not built within five years, that money will be released to the Andover Housing Trust Fund. This amount was determined from a similar project in Reading, MA where their Board determined that affordability didn't make sense, but they had an affordability requirement. Mr. Materazzo noted that the bylaw does allow for a payment in lieu and some developers prefer to give that payment so they do not have to build the affordable units.

Susan Gittelman of B'nai B'rith stated that they are currently in the funding queue with the Department of Housing and Community Development as they submitted their application in the last funding round. She added that it often takes two or three funding rounds to be approved. The funding cycle is typically twice a year, but this year it was only once. Mr. Bergeron asked Ms. Gittelman if she has ever had a project that has not received funding. Ms. Gittelman stated that she has had four projects go through this process and they have all received funding. Mr. Doherty asked how long the process usually takes. She stated that a similar project in Sudbury took three funding rounds which was a year and a half. Mr. Doherty then asked how long it would take to get shovels in the ground after receiving funding and Ms. Gittelman stated 6 months or quicker if possible. Ms. Knowles asked if they have ever received permits from a Town, but did not the necessary funding. Ms. Gittelman stated not recently because DHCD now has a pre-application comprehensive vetting process that only moves forward the best projects. Ms. Knowles asked if they are currently in the vetting process or through it. Ms. Gittelman stated it is through the vetting process. Ms. Knowles then asked if that meant from DHCD's prospective that they are ready to go with the rounds of funding, and Ms. Gittelman stated that she was correct.

Mr. Materazzo asked Ms. Gittelman to explain the income thresholds. Ms. Gittelman stated that residents would have to qualify under Federal guidelines which today are earnings of \$39,000 - \$42,000 per year based on a 1-2 person household. The income levels do increase slightly each year. All units are one bedroom units and rent would be \$900 - \$1000 a month.

Mr. Doherty asked if Town Counsel had reviewed the language of the affordability component. Mr. Materazzo stated that an escrow account like this is not uncommon and Town Counsel will review all of the language. If the Board feels five years is too long of a period of time it can be discussed more during deliberations. Mr. Doherty stated that he still feels that it should be two separate applications. Mr. Tye reiterated that the land is and will always be owned by one entity. Mr. Doherty asked what happens to the B'nai B'rith land if the building is not built. Mr. Tye stated that the Town will keep the \$250,000, and if the ownership want to do anything else with that land other than what has been permitted it would need to modify the Special Permit.

Mr. Materazzo asked Mr. Tye to speak to the quality of the units, which is a topic that was identified for review tonight. Mr. Tye gave a PowerPoint presentation on the look of the development showing a typical rendering and the type of shingles and siding to be used. He showed an example of the sheltered garden areas for groups of 18 residents at the Bridges and a typical apartment off of a common area. Mr. Tye also showed a rendering of the Andover Senior Residences and a typical apartment.

Ms. Knowles noted that \$250,000 doesn't seem like a lot of money. Mr. Materazzo stated that this amount has been used by the Town for other projects. He added that this money can be used to help seniors improve their home to stay in them for a longer period of time. It is not meant to buy a unit or be one for one.

Jerry Crowley of 2 Cricket Circle asked if National Development has ever had to make the in lieu of payment to a Town. Mr. Tye stated that they have not because no such fee has been required from another community. Mr. Crowley asked if they have partnered with another group in the past. Mr. Tye stated that they have many times. Mr. Crowley asked if all proposed buildings in former projects had been built and Mr. Tye says that they were all built. Mr. Crowley asked if the age or 55 was arbitrary or set by law. Mr. Bergeron stated that it is set by the Bylaw. Mr. Crowley asked if that could be changed. Mr. Materazzo stated that it could be changed at Town Meeting. Mr. Crowley noted people of that age may still have young children. Mr. Tye stated that all of the units are 1 bedroom and are limited to two occupants. Ms. Gittelman added that that anyone under 18 is prohibited from living there, and the state sanitary code only allows two persons per bedroom. Mr. Crowley asked what services are provided for residents. Mr. Tye stated that it is an array of services including 3 meals a day, full housekeeping, transportation and activity services on and off-site and personal care. Mr. Crowley asked if there were nurses. Mr. Tye explained they have a resident services coordinator. At the point of time that a resident needs residential medical care they would transition to a nursing home.

Margaret O'Connor of 22 Railroad Street stated that Dr. Sue Tenney has stated that Andover does not need more dementia units as other facilities in the area are not full. She added that her sister is a resident of Atria Marland Place and basic care is \$6,100 a month. This is an expensive model that will be at least \$2,000 more. Andover needs senior housing but this is not the right way to go about it.

Mr. Tye stated that they consider themselves experts in the field have done a comprehensive market study. Mr. Bergeron asked if the decision on the financing for the Bridges is based being able to fill the units. Mr. Tye stated that his group began with a detailed market study and their financing is based on an appraisal and independent market study by their lender. He added that if this development leads to two tiers of pricing in the market, that is a good thing.

Mary Garrity Cormier of 14 Nicole Drive stated that every five years after the age of 65 your chances of having memory impairment doubles. There are many different types of memory issues and this is being built specifically to address memory needs, instead of retrofitting an existing building. It will be positive for Andover and for the future of Andover. She added that she has a lot of experience in this as she gave up her career to care for her parents, earned a Master's Degree in gerontology and aging services and has served on the Council of Aging.

Jerry Crowley of 2 Cricket Circle stated that he and his neighbors will have to live with whatever is built and the members of the Board will not. The land is more appropriate for single family homes, and the Board shouldn't grant an exception for something that isn't needed. He added that no one is saying that the Town doesn't need memory care or senior housing, but it doesn't have to be on that site. Mr. Bergeron noted that there has been talk about senior housing being close to downtown, but this is the site that this developer is putting forward. Mr. Materazzo pointed out that in the last 30 years the Town has only had two other proposals for senior housing. Mr. Bergeron added that if this project does go forward the Board is able to place reasonable conditions on the project.

Heather Lauten of 243 Lowell Street asked if Town Counsel agrees that this proposal meets the congregate housing definition. She feels that this is two very different projects. She stated that similar developments by National Development are described as assisted living facilities or affordable apartment homes. She feels that congregate living does not apply to Andover Senior Residences. Mr. Bergeron pointed out that developers use certain marketing terms that may not match bylaw definitions. Ms. Lauten stated that the Andover Senior Residences is independent living as there are no shared living or dining facilities and they are all individual apartments. The development is two separate non-connected buildings with separate owners. Town Meeting has denied a proposal for a zoning change to allow independent living in new construction so this subverts the zoning bylaw. Mr. Materazzo stated that Town Counsel has advised that the Inspector of Buildings interprets the Zoning Bylaw, and Mr. Clemente has submitted a memo with his opinion that this development meets the congregate care definition.

Mark Johnson, an attorney representing the applicant reiterated that the Building Inspector is the Zoning Enforcement Officer for the Town. He added that residents at Town Meeting voted for these uses to be allowed in the SRA and SRB zones. The Master Plan has statistical data supporting a large increase in seniors and Town Meeting deemed this location as suitable.

Steve O'Connell of 6 Robinswood Way asked Ms. Gittelman additional questions about the financing of the Andover Senior Residences. He asked who would receive the tax credits from the project and Ms. Gittelman stated that an entity had not yet been identified but three or four were included as part of their application to the state. Mr. O'Connell asked if they will be issuing debt on the project to fund the portion after the tax credits. Ms. Gittelman stated that

they anticipate a limited amount of debt, and they are currently working with Bank of America. In addition to tax credits there is additional capital that is part of their request to the state. Mr. O'Connell asked if they will be issued a tax exempt loan through MassHousing. Ms. Gittelman stated that in the past they have used a successful model where Bank of America is the sole entity of additional financing. Mr. O'Connell asked if they would have to go through another process to find a lender, if the lender does not also purchase the tax credits. Ms. Gittelman stated that they will put an RFP out for all three stages of financing at one time. Mr. Bergeron asked Mr. O'Connell if his questions were being posed to determine how long this process will take. Mr. O'Connell answered that he was trying to determine how long the financing process will take and how successful it will be, as it is a complicated process. He added that today's interest rates are low, but they may not be in a year and a half, and there may be additional risk. He would prefer that the Town take the \$250,000 and not have the low income housing built.

Jane Gifun of 9 Castle Heights Road, a member of the Council on Aging, asked what constitutes a resident. She would like individuals who have lived in Town longer to get better preference. Mr. Materazzo stated that this is something that the Board can look into more. Ms. Knowles asked if they could set up a grading system for the residents. Mr. Tye stated that Town Counsel can inform them what a legal resident is defined as, and you can prioritize residents over employees or family members, however you cannot tier legal residents. Mr. Materazzo welcomed the Council on Aging to draft a proposal on a residency preference. He added that at the next meeting they will discuss engineering, the drainage review and any proposal from the Council on Aging.

On a motion by Ms. Duff seconded by Mr. Doherty the Board moved to continue the public hearing to October 14th at 7:45 p.m. **Vote:** Unanimous (5-0).

It should be noted that after the discussion on 254 Lowell Street ended, at 8:48 p.m. Mr. Bergeron and Mr. Pouliot left the meeting and did not return. Ms. Duff chaired the remainder of the meeting.

Merrimack College:

Ms. Duff opened the continued public meeting on an application filed by Merrimack College for a Site Plan Review – Dover Use for four new dormitories and a community building.

Mr. Materazzo stated that since the Board has not requested additional information, he suggested they close the public hearing. Mr. Doherty stated that he wanted to keep the hearing open at the last meeting so that he could have more time to review Mr. Houston's report which was received the day of the meeting. He asked Felipe Schwarz, representing Merrimack College, if the college needs to obtain permits from MassDOT as Mr. Houston's report states. Mr. Schwarz stated that it is their understanding that they do not. Mr. Doherty asked if this development will use the existing dumpsters at the Sakowich Center. Mr. Schwarz stated trash would be trucked from the commons building to the Sakowich Center as they currently do with the library. Mr. Doherty noted that the Board had been provided a letter from a student sent to the neighborhood asking to park in their driveways. Mr. Schwarz stated that the student is a sophomore and reiterated the parking procedures on campus. He noted that sophomores can have an opportunity to purchase a parking pass through a lottery. Mr. Doherty asked if there would be enough

parking during construction for the laborers. Mr. Schwarz stated that the laborers would park in a designated overflow area. Mr. Doherty asked if there will be a designated route for trucks hauling materials. Mr. Schwarz stated that trucks would use the Elm Street entrance.

Ms. Knowles asked if the College will have to file a notice of project change with MEPA. Mr. Materazzo stated that if it is necessary, the College will have to pursue it. Ms. Knowles noted that she is concerned about post development noise of the emergency generator and transformer. She asked if they could be moved further back onto the site, and if they are tested frequently. Mr. Schwarz stated that the generator will be on the Sakowich Center side. It does have routine times of testing but he is not aware of any significant noise from it. Chris Lovett of VHB added that there are noise attenuators with the generators. Mr. Materazzo added that if any decibel levels violate specific laws, the Inspector of Buildings would enforce the laws.

Mr. Doherty asked if there are air conditioners in the buildings. Mr. Schwarz stated that there will not be air conditioning in the residences, but there will be in the commons building. Ms. Knowles asked the location of the air conditioning units. Todd Hooper of ProCon, the architect on the project stated that the screened units are on the roof.

Melissa Rivers of 8 Fox Hill Road spoke on behalf of the Coalition for Merrimack College Smart Growth. She stated that their consultant and attorney have raised a lot of issues and they do not feel that they have gotten definitive answers or that all items have been addressed.

Bert Ouellette of 30 Fox Hill Road stated that in regards to the height limit measurement, raising the field by 4 ft will put the building height above the limitation. He hopes that this issue does not get skipped over. Mr. Materazzo stated that a condition can be placed on any recommendation that tying in the height requirement to the definition in the bylaw. Mr. Ouellette added that he doesn't think that Merrimack has truly addressed the total number of parking spaces needed, and their biggest concern is that 350 kids will be in their neighborhood. He added that if they have to, they will petition the legislature for an appeal to protect the investment of their properties.

Ms. Knowles stated that she and Mr. Materazzo have discussed what the Town can do to help the neighborhood. Mr. Materazzo added that they can look into limitations on vehicle movement on Rock Ridge Road such as one-way access or other creative measures that the Town can take to discourage movement in the neighborhood. The access gate should limit how the campus interacts with Rock Ridge Road and heavy truck exclusion may also be considered.

Bill Page of 54 Brookfield Road stated the North Andover Planning Board discussed having the proposed gate move from side to side instead of up and down. Mr. Materazzo stated that any gate installed would have to be reviewed by the Fire Department. Mr. Schwarz added that the click to enter codes will be shared with North Andover.

On a motion by Ms. Knowles seconded by Mr. Doherty the Board moved to close the public meeting on the Merrimack College North Campus Development. **Vote:** Unanimous (3-0).

Merrimack College Deliberations:

Mr. Materazzo passed out a memo with suggested reasonable recommendations. He reviewed how the College complies with the seven criteria of the Dover Amendment. Proposed condition number 11 ties the height of the building to the bylaw to ensure the building height does not exceed what is allowed. Yard size is not applicable in the SRB district, the lot area requirement of 30,000 s.f. is met because the campus is over 200 acres. The setbacks are met with a setback on Elm Street of 305 ft and a setback from Rock Ridge Road of 40 ft. There is no open space requirement, but the campus has 81% open space. The parking requirements for this use are one parking space for every four persons total occupancy. The College is providing 1 parking space for every two persons which are over 1,500 parking spaces, almost doubling the requirement. Building coverage is not applicable for this project.

Mr. Materazzo stated that enhancements to this project based on the public hearing comments are an enhanced landscape buffer, a 5 ft high fence, a reduction in the footprint of the commons building as well as the commons building being pushed further into campus by 10 ft. Mr. Materazzo also noted the addition of an access gate at Rock Ridge Road which will prohibit delivery trucks from using Rock Ridge Road.

Mr. Materazzo reviewed the draft 17 conditions that prepared for recommendation to the Inspector of Buildings. Ms. Knowles asked if a one year survival is typical for landscaping. Mr. Materazzo stated that it is, but if the Board so pleases it can be changed to two years. He added that the College has stated that they are committed to maintaining the landscaping. Ms. Knowles asked if a sign could be placed on the access gate with information on the access restrictions. Mr. Materazzo stated that he could discuss that with the Fire Prevention Officer. Ms. Knowles stated that she would like "Emergency Access Only" placed on the bar. Mr. Materazzo noted that these conditions are in draft form and the Board should review them and report back at the next meeting.

Adjournment: The meeting was adjourned at 9:24 p.m.